THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.17209 of 1996

Between:
Bommireddi Narasimhaswami and another

Petitioners

And

The Government of Andhra Pradesh,
rep. by it's District Collector,
East Godavari District at Kakinada and others

Respondents

W.P.No.21846 of 1996

Between:
K.Sreerama Rao and others

Petitioners

And

The District Collector, East Godavari at Kakinada and others

Respondents

W.P.No.18728 of 1997

Between:
Gannabathula Venkata Raja Rao and others

Petitioners

And

The District Collector, East Godavari at Kakinada and others

Respondents

COMMON JUDGMENT
Dated:20-06-2007

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.Nos.17209 of 1996, 21846 of 1996 &18728 of 1997

COMMON ORDER:

1. Since all these three writ petitions raise a common question, they are heard and decided together.

2. W.P.No.17209 of 1996 has been instituted by the fishermen seeking the following relief:

> *" to issue an order, direction or any other appropriate Writ, more particularly one in the nature of Writ of Mandamus declaring that the petitioners are entitled to keep Basket Traps i.e. "MAVU KATTU AND TADIKA KATTU" in the Sankraguptam Drain (Upputeru Drain) of Razol block now under the Malkipuram and Sakinetipalli Mandals, East Godavari District and the respondents have no right to interfere with the fishing rights of the fishermen in the aforesaid drain and for a consequential direction to the respondents not to interfere with the petitioners rights of fishing by using Kattus and pass such other orders"*

3. W.P.No.21846 of 1996 has been instituted by the agriculturists seeking the following relief:

> *" to issue a writ, order or direction more in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing Proc. Ref. No.B/4871/96 dated 02-08-1996 as illegal, arbitrary and against the orders passed by the 1st respondent in R.Dis.No.R2/17671/74, dated 11-12-1974, with a consequential direction to respondents 1 to 4 not to allow any fish stakes in Sankaraguptam drain of erstwhile Razole taluq, throughout the year and pass such other orders"*

4. W.P.No.18728 of 1997 has been instituted by the agriculturists seeking the following relief:

> *" to issue a writ, order or direction more in the nature of Writ*

of Mandamus declaring the action of the 2nd respondent in issuing Proc. Ref. No. B/4871/96 dated 02-08-96 as illegal, arbitrary and against the orders passed by the 1st respondent in R.Dis.No.R2/17671/74, dated 11-12-1974 with a consequential direction to respondents 1 to 3 not to allow any fish stakes in Shankaraguptam drain of erstwhile Razole taluq, throughout the year and implement the orders passed in R.Dis.No.R2/17671/74, dated 11-12-1974 of the 1st respondent and pass such other orders"

5. The W.P.Nos. 21846 of 1996 and 18728 of 1997 have been instituted by the agriculturists who own lands in and around Sakinetipalli Mandal and Malikipuram Mandal, East Godavari District who alleged that their agricultural paddy fields are getting inundated due to the obstructive practices adopted by the fishermen. I therefore, suggested to the learned Government Pleader to ask the Revenue Divisional Officer, Amalapuram, to look into the matter and make available his report. The Revenue Divisional Officer has reported that due to the obstructive practices adopted while rearing fish, the possibility of approximately Ac.34,375-00 of paddy fields are likely to be affected due to inundation. Therefore, it will not be appropriate for this court to entertain W.P.No.17209 of 1996 and grant the relief prayed for therein. But however, the Revenue Divisional Officer, Amalapuram has reiterated that by removing the fish nets and stakes during the months of August, September, and October which is considered as the rainy season, the problem of inundation of large extents of paddy fields can be completely avoided. During the balance 9 months period the fishermen can be allowed to attend to their fishing operations without causing any hindrance to the free passage of water from the fields through this drain. In this view of the matter, the W.P.No.17209 of 1996 is dismissed but however without costs.

6. The W.P.Nos. 21846 of 1996 and 18728 of 1997 are allowed to the extent of permitting or enabling the 175 families of fishermen to rear and carry on their fishing activities in Sankaraguptam drain by taking appropriate measures for free and smooth flow of the water in the drain and not to cause any obstruction for free flow of the water in the process. The fishermen shall

not be permitted to carry on fishing activity in the drain only in the months of August, September and October, and for any extraordinary reason even for a shorter period thereafter only if the Revenue Divisional Officer is convinced that they shall be so prevented from carrying on to meet the larger public interest of saving approximately Ac.35,000-00 of paddy fields from getting inundated.

7. With this, the W.P.Nos. 21846 of 1996 and 18728 of 1997 are allowed. No order as to costs.

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NOOTY RAMAMOHANA RAO,J

20-06-2007
Stp